

Appl. No. 10/824,121
Atty. Docket No. 9522
Amdt. dated March 16, 2006
Reply to Office Action of December 16, 2006
Customer No. 27752

REMARKS

Claim Status

Claims 1-15 were originally pending. Claims 1, 13, and 14 have been amended. New claims 16-17 have been added. Claims 1-17 are now pending. No additional claims fee is believed to be due.

Claim 1 has been amended to 1) remove the limitation that the cuffs are barrier cuffs, and 2) to recite that the cuff end bond is disposed at the distal end. Support for this amendment can be found at Page 9, lines 16-21 of the specification (see also Fig. 2).

Claim 13 has been amended to remove the claim term "various".

Claim 14 has been amended to recite that at least one of the first and second cuffs includes a pair of elastic members extending substantially along the length thereof. Support for this amendment can be found at Page 10, lines 1-8 of the specification (see also Fig. 2).

New claim 16 recites that the the cuffs are barrier cuffs. Support for this claim can be found at claim 1 as originally filed.

New claim 17 recites that the first and second cuffs each include a pair of elastic members. Support for this claim can be found at Page 10, lines 1-8 of the specification (see also Fig. 2).

Double Patenting

Claims 1-15 have been provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-12 and 15 of copending Application No. 10/842,122. Applicant has not been able to locate this patent application. It is possible that the Office Action was attempting to refer to Application No. 10/824,122. However, prior to addressing the double patenting rejection, Applicants respectfully request confirmation of the patent application at issue.

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Rejection Under 35 USC §112, Second Paragraph

Claim 13 is rejected under 35 USC 112, second paragraph, as being indefinite because the phrase "a series of various materials" is said to not properly and clearly define said continuous cuff material. Claim 13 has been amended to recite that said continuous cuff material is constructed of a series of materials. Applicant asserts that claim 13 is definite as amended. Withdrawal of the rejection is respectfully requested.

Rejection Under 35 USC §102 in View of Kielpikowski

Claims 1-15 are rejected under 35 USC §102 as being anticipated by Kielpikowski.

Claims 1-13

With respect to independent claim 1, Kielpikowski is cited as disclosing a diaper 10 comprising a liquid-impermeable outer cover 18, liquid permeable bodyside liner 20 and absorbent core 22 located between the bodyside liner 20 and outer cover 18. Kielpikowski is further cited as disclosing a containment flap assembly 24 comprising inner containment flaps 34 and outer containment flaps 26. The inner flaps 34 are said to have distal edges 30, outer flaps 26 are said to have distal edges 38, and both flap sets are said to have intermediate bond between distal edges 30 and 38 and are defined by a line of attachment at which the flap assembly 24 is attached to the bodyside liner 20.

Claim 1 originally recited a dual cuff having a proximate end and a distal end. Claim 1 further originally recited that the dual cuff is joined to the article by an intermediate bond. Claim 1 further originally recited that the dual cuff is constructed of a continuous cuff material and enclosed by a cuff end bond. Claim 1 has been amended to further recite that the cuff end bond is disposed at said distal end,

Kielpikowski fails to teach or suggest a cuff end bond disposed at said distal end. While Kielpikowski does disclose first and second sheets 42, 44 that are integrally formed from a single piece of material that is folded upon itself to form two layers, applicant was unable to find any disclosure of how the integral sheets 42, 44 are connected. Figs. 3-6 of Kielpikowski best illustrate the arrangement and show sheets 42 and 44 wrapped around outer elastic members 32 at distal edge 30. Clearly no bond is present at the distal edge 30. Presumably, the single material is bonded at the line of attachment 28, 38 because the Figures and indeed the specification do not provide any disclosure of any additional

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bonds at the containment flaps. The line of attachment 28, 38 is analogous to the presently claimed intermediate bond, and cannot be properly interpreted as a distal end.

The present specification notes that the location of the bond is more than a mere design choice. Specifically, the bond location provides improved barrier properties by minimizing the number of potential leakable locations. Kielpikowski fails to address any significance of the bond location or in the number of bonds. In fact, Kielpikowski discloses one embodiment in which two separate layers are used (and presumably bonded at two ends). See Col. 4, lines 42-49. In describing the alternative "integral" embodiment, Kielpikowski provides no advantages of using a single integral material as opposed to two separate layers. It is the present invention, and not Kielpikowski, that recognizes the advantages of selecting the bond location.

Claim 1 therefore differs structurally from the cited prior art and further achieves advantages that are not recognized by the prior art. Because Kielpikowski fails to teach or suggest each limitation recited in claim 1, Applicant asserts that claim 1 and corresponding dependent claims 2-13 are patentable over the cited prior art. Withdrawal of the rejection is respectfully requested.

Claims 14-15

Independent claim 14 has been amended to recite that at least one of the first and second cuffs includes a pair of elastic members extending along the length thereof and imparting a contractive force to the at least one of the first and second cuffs. Kielpikowski, on the contrary, clearly discloses that the outer containment flap 26 and the inner containment flap 34 each include only a single elastic member 32 and 40, respectively. It is the present invention, and not Kielpikowski, that recognized the ability for a pair of elastic members to be enveloped in a cuff formed from a single layer of material (see page 9, lines 19-20).

Accordingly, the invention recited in claim 14 differs structurally from the cited prior art and further provides advantages not attained or recognized by the prior art. Because Kielpikowski fails to teach or suggest each limitation recited in claim 14, Applicant asserts that claim 14 and corresponding dependent claim 15 is patentable over the cited prior art. Withdrawal of the rejection is respectfully requested.

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New Claims

New claims 16 and 17 have been added to the application.

Claim 16 depends from claim 1, and recites that the cuffs are barrier cuffs. Applicant cites the patentability of claim 1 as providing sufficient basis for the allowability of new claim 16.

Claim 17 depends from claim 14, and recites that both cuffs include a pair of operatively associated elastic members. As discussed above with respect to claim 14, Kielpikowski fails to teach or suggest either the outer or the inner containment flap as including a pair of elastic members. New claim 17 is patentable for this reason and for depending from a patentable independent claim.

Formal allowance of claims 16 and 17 is respectfully requested.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider the pending application. Early and favorable action in the case is respectfully requested.

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of the claims is respectfully requested.

Respectfully submitted,

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